

House File 2214 - Introduced

HOUSE FILE 2214

BY SANDS

A BILL FOR

1 An Act relating to relocation of a custodial parent and
2 modification of child custody.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 598.21D, Code 2016, is amended to read
2 as follows:

3 **598.21D Relocation of parent as ~~grounds to modify~~ — notice**
4 **~~— hearing — modification of order of child custody.~~**

5 1. If a parent awarded joint legal custody and physical care
6 or sole legal custody is relocating the residence of the minor
7 child to a location which is one hundred fifty miles or more
8 from the residence of the minor child at the time that custody
9 was awarded, the relocating parent shall provide sixty-days'
10 advance written notice of the intended relocation to the court
11 and to the other parent. The court may consider the relocation
12 a substantial change in circumstances.

13 2. The court shall, upon motion of any party or upon the
14 court's own motion, schedule a hearing to review the notice
15 of relocation to determine if the relocation is a substantial
16 change in circumstances and if the relocation is in the best
17 interest of the child. The burden of proving that relocation
18 of the residence of the minor child is in the child's best
19 interest is on the relocating parent. In determining if the
20 relocation is in the best interest of the child, in addition
21 to the factors specified in section 598.41, subsection 3, the
22 court shall consider all of the following:

23 a. The reason for the parent's relocation.

24 b. The additional costs or difficulty to both parents in
25 exercising visitation.

26 c. The economic resources of both parents.

27 d. Whether the relocation is being made or opposed in
28 good faith and not to interfere with or to frustrate the
29 relationship between the minor child and the other parent or
30 the other parent's right of access to the minor child.

31 e. The prospective advantage of the relocation for improving
32 the general quality of life for the relocating parent or for
33 the minor child.

34 f. The likelihood that the relocating parent will comply
35 with the custody order.

1 g. Whether the relocation will allow a realistic opportunity
2 for shared parenting time.

3 h. The extent to which relocating or not relocating will
4 affect the emotional, physical, or developmental well-being and
5 stability of the minor child.

6 i. Other factors the court considers necessary and relevant.

7 3. If the court determines that the relocation is a
8 substantial change in circumstances and is in the best interest
9 of the child, the court shall modify the custody order to,
10 at a minimum, preserve, as nearly as possible, the existing
11 relationship between the minor child and the nonrelocating
12 parent. If modified, the order may include a provision for
13 extended visitation during summer vacations and school breaks
14 and scheduled telephone contact between the nonrelocating
15 parent and the minor child. The modification may include a
16 provision assigning the responsibility for transportation of
17 the minor child for visitation purposes to either or both
18 parents.

19 4. If the court determines that the relocation is a
20 substantial change in circumstances, but is not in the best
21 interest of the child, the court shall do one of the following:

22 a. If the nonrelocating parent has joint legal custody, the
23 court shall modify the custody order to award physical care
24 to the nonrelocating parent and to provide visitation to the
25 relocating parent to, at a minimum, preserve, as nearly as
26 possible, the existing relationship between the minor child and
27 the relocating parent.

28 b. If the relocating parent has sole legal custody, the
29 court shall modify the custody order to provide increased
30 visitation to the nonrelocating parent in addition to that
31 provided under the existing custody order and may include a
32 provision assigning the responsibility for transportation of
33 the minor child for visitation purposes to the relocating
34 parent.

35 5. If the court makes a finding of past interference by

1 the parent awarded joint legal custody and physical care or
2 sole legal custody with the minor child's access to the other
3 parent, the court may order the posting of a cash bond to
4 assure future compliance with the visitation provisions of the
5 decree order. The supreme court shall prescribe guidelines
6 for the forfeiting of the bond and restoration of the bond
7 following forfeiting of the bond.

8 EXPLANATION

9 The inclusion of this explanation does not constitute agreement with
10 the explanation's substance by the members of the general assembly.

11 This bill relates to the relocation of a parent with joint
12 legal custody and physical care or sole legal custody of a
13 child.

14 Current law provides that if a parent awarded joint legal
15 custody and physical care or sole legal custody is relocating
16 the residence of the minor child to a location which is 150
17 miles or more from the residence of the minor child at the time
18 that custody was awarded, the court may consider the relocation
19 a substantial change in circumstances. If the court determines
20 that the relocation is a substantial change in circumstances,
21 the court is required to modify the custody order to, at
22 a minimum, preserve, as nearly as possible, the existing
23 relationship between the minor child and the nonrelocating
24 parent. The modification may include a provision for extended
25 visitation during summer vacations and school breaks and
26 scheduled telephone contact between the nonrelocating parent
27 and the minor child, as well as assigning the responsibility
28 for transportation of the minor child to either or both
29 parents.

30 Under the bill, if a parent awarded joint legal custody and
31 physical care or sole legal custody is relocating the residence
32 of the minor child to a location which is 150 miles or more
33 from the residence of the minor child at the time that custody
34 was awarded, the relocating parent is required to provide
35 60-days' advance written notice of the intended relocation to

1 the court and to the other parent. Upon motion of any party
2 or upon the court's own motion, the court shall schedule a
3 hearing to review the notice of relocation to determine if the
4 relocation is a substantial change in circumstances and if the
5 relocation is in the best interest of the child. The burden
6 of proving that relocation is in the child's best interest is
7 on the relocating parent. In determining if the relocation is
8 in the best interest of the child, in addition to the factors
9 currently specified for the awarding of custody, the bill
10 specifies other factors relating to the relocation that the
11 court shall consider.

12 If the court determines that the relocation is a substantial
13 change in circumstances and is in the best interest of the
14 child, the court shall modify the custody order to, as is
15 currently the law, at a minimum, preserve, as nearly as
16 possible, the existing relationship between the minor child and
17 the nonrelocating parent. If modified, the order may include
18 a provision for extended visitation during summer vacations
19 and school breaks and scheduled telephone contact between the
20 nonrelocating parent and the minor child. The modification
21 may include a provision assigning the responsibility for
22 transportation of the minor child for visitation purposes to
23 either or both parents.

24 If the court determines that the relocation is a substantial
25 change in circumstances, but is not in the best interest of
26 the child, the court shall do one of the following: (1) if
27 the nonrelocating parent has joint legal custody, the court
28 shall modify the custody order to award physical care to
29 the nonrelocating parent and to provide visitation to the
30 relocating parent to, at a minimum, preserve, as nearly as
31 possible, the existing relationship between the minor child
32 and the relocating parent; or (2) if the relocating parent has
33 sole legal custody, the court shall modify the custody order
34 to provide increased visitation to the nonrelocating parent
35 in addition to that provided under the existing custody order

1 and may include a provision assigning the responsibility for
2 transportation of the minor child for visitation purposes to
3 the relocating parent.